

Farm Service Agency, USDA

§ 701.36

§ 701.26 Maximum cost-share percentage.

(a) In addition to other restrictions that may be applied by FSA, an ECP participant shall not receive more than 75 percent of the lesser of the participant's total actual cost or of the total allowable costs, as determined by this part, to perform the practice.

(b) However, notwithstanding paragraph (a) of this section, a qualified limited resource producer that participates in the ECP may receive no more than 90 percent of the participant's actual cost to perform the practice or 90 percent of the total allowable costs for the practice as determined under this part.

(c) In addition to other limitations that apply, in no case shall the ECP payment exceed 50 percent of what the Deputy Administrator has determined is the agricultural value of the affected land.

§ 701.27 Maximum ECP payments per person.

A person, as defined in part 1400 of this title, is limited to a maximum cost-share of \$200,000 per person, per disaster.

§§ 701.28-701.30 [Reserved]

§ 701.31 Maintenance and proper use of practices.

(a) Each participant receiving cost-share assistance is responsible for the required maintenance and proper use of the practice. Some practices have an established life span or minimum period of time during which they are expected to function as a conservation practice with proper maintenance. Cost-share assistance shall not be authorized for normal upkeep or maintenance of any practice.

(b) If a practice is not properly maintained for the established life span, the participant may be required to refund all or part of cost-share assistance received. The Deputy Administrator will determine what constitutes failure to maintain a practice and the amount that must be refunded.

§ 701.32 Failure to comply with program provisions.

Costs may be shared for performance actually rendered even though the minimum requirements otherwise established for a practice have not been satisfied if a reasonable effort was made to satisfy the minimum requirements and if the practice, as performed, will adequately address the need for the practice.

§ 701.33 Death, incompetency, or disappearance.

In case of death, incompetency, or disappearance of any participant, any cost-share payment due shall be paid to the successor, as determined in accordance with part 707 of this chapter.

§ 701.34 Appeals.

Part 11 of this title and part 780 of this chapter apply to determinations made under this part.

§ 701.35 Compliance with regulatory measures.

Participants who perform practices shall be responsible for obtaining the authorities, permits, rights, easements, or other approvals necessary to the performance and maintenance of the practices according to applicable laws and regulations. The ECP participant shall be wholly responsible for any actions taken with respect to the project and shall, in addition, be responsible for returning and refunding any ECP cost shares made, where the purpose of the project cannot be accomplished because of the applicants' lack of clearances or other problems.

§ 701.36 Schemes and devices and claims avoidances.

(a) If FSA determines that a participant has taken any action designed to defeat, or has the effect of defeating, the purposes of this program, the participant shall be required to refund all or part of any of the program payments otherwise due or paid that participant or related person for that particular disaster. These actions include, but are not limited to, failure to properly maintain or deliberately destroying a practice and providing false or misleading information related to practices, costs, or arrangements between

§ 701.37

entities or individuals that would have an effect on “person” determinations made under this part.

(b) All or any part of cost-share assistance that otherwise would be due any participant may be withheld, or required to be refunded, if the participant has adopted, or participated in, any scheme or device designed to evade the maximum cost-share limitation that applies to the ECP or to evade any other requirement or provision of the program or this part.

(c) If FSA determines that a participant has employed any scheme or device to deprive any other person of cost-share assistance, or engaged in any actions to receive payments under this part that also were designed to avoid claims of the United States or its instrumentalities or agents against that party, related parties, or third parties, the participant shall refund all or part of any of those program payments paid to that participant for the project.

(d) For purposes of this section, a scheme or device can include, but is not limited to, instances of coercion, fraud, or misrepresentation regarding the claim for ECP assistance and the facts and circumstances surrounding such claim.

(e) A participant who has knowingly supplied false information or filed a false claim shall be ineligible for cost-share assistance related to the disaster for which the false information was filed, or for any period of time FSA deems appropriate. False information or a false claim includes, but is not limited to, a request for payment for a practice not carried out, a false billing, or a billing for practices that do not meet required specifications.

§ 701.37 Loss of control of the property during the practice life span.

In the event of voluntary or involuntary loss of control of the land by the ECP cost-share recipient during the practice life-span, if the person acquiring control elects not to become a successor to the ECP agreement and the practice is not maintained, each participant who received cost-share assistance for the practice may be jointly and severally liable for refunding any ECP cost-share assistance related to

7 CFR Ch. VII (1–1–08 Edition)

that practice. The practice life span, for purposes of this section, includes any maintenance period that is essential to its success.

§§ 701.38–701.40 [Reserved]

§ 701.41 Cost-share assistance not subject to claims.

Any cost-share assistance or portion thereof due any participant under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against any crop or property, or proceeds thereof, except liens and other claims of the United States or its instrumentalities. The regulations governing offsets and withholdings at parts 792 and 1403 of this title shall be applicable to this program and the provisions most favorable to a collection of the debt shall control.

§ 701.42 Assignments.

Participants may assign ECP cost-share assistance payments, in whole or in part, according to part 1404 of this title.

§ 701.43 Information collection requirements.

Information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions at 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560–0082.

§ 701.44 Agricultural Conservation Program (ACP) contracts.

Contracts for ACP that are, or were, administered under this part or similar contracts executed in connection with the Interim Environmental Quality Incentives Program, shall, unless the Deputy Administrator determines otherwise, be administered under, and be subject to, the regulations for ACP contracts and the ACP program that were contained in the 7 CFR, parts 700 to 899, edition revised as of January 1, 1998, and under the terms of the agreements that were entered into with participants.